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Fifty-sixth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1388th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 17 March 2000, at 10 a.m.

Chairman: Mr. SHERIFIS

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* The summary record of the second part (closed) of the meeting appears as document CERD/C/SR.1388/Add/1.

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Initial, second, third and fourth periodic reports of Estonia (CERD/C/329/Add.2) (continued)

1. At the invitation of the Chairman, the members of the delegation of Estonia resumed their places at the Committee table.

2. The CHAIRMAN invited the delegation of Estonia to reply to the questions raised by the Committee members at the preceding meeting.

3. Ms. JAANI (Estonia) said that her delegation was very grateful to the Committee for its various comments, even though they had sometimes referred to issues not directly covered by the Convention. She and her colleagues would try to reply as fully as possible to the questions asked.

4. Mr. KOKK (Estonia), in response to a question about the definition of national minorities, said that the definition given by Estonia, which applied to Estonian citizens residing in Estonia, was the same as that adopted by several other European countries. The reference to citizenship was not at all unusual. He invited members of the Committee to refer to paragraph 50 of the second progress report on the protection of minorities (E/CN.4/Sub.2/1992/37), in which the author quoted the definition of minorities given in Francesco Capotorti's Study on Rights of Persons belonging to Ethnic, Religious and Linguistic Minorities. The definition included the word "national". All the same, non-Estonian nationals residing in Estonia enjoyed the same rights as Estonians except for the right to vote or stand for elective office; they could still vote or stand for election to the boards of non-governmental organizations (NGOs). While it was true that Estonian citizens and non-Estonians were listed in different electoral registers, that was not for discriminatory purposes, but simply for practical reasons, owing to the fact that aliens were not eligible to vote in general elections.

5. Members of national minorities with Estonian citizenship who wished to stand for political office must, in accordance with the Election Act, have sufficient knowledge of the Estonian language to be able to carry out their functions properly. There was also a basic language requirement for obtaining Estonian nationality; the same rule applied in other European countries and was non-discriminatory. The required standard was not beyond the capabilities of the average candidate, since 90 per cent of those taking the language examination passed. Furthermore, the costs of language courses taken by candidates were refundable.

6. Contrary to suggestions made during the discussion, filiation was not the only basis on which Estonian nationality could be acquired. He invited members of the Committee to refer to paragraphs 149 (c), 150, 151 and 152 of the report, which concerned the naturalization of minors or aliens who had long been residents of Estonia.

7. The distinction between Estonian citizens and aliens in the Weapons Act of 1995 concerning the purchase and possession of firearms was made for national security reasons. It was natural for additional conditions to be attached for persons holding only a temporary residence permit. It was also for reasons of national security that restrictions applied to aliens wishing to acquire land or other immovable property in Estonia. Operations of that nature were subject to authorization from local or central Government. Similar restrictions existed in other countries such as Bulgaria, Croatia, Romania, Slovenia, etc.

8. In reply to Mr. Nobel's question, he said that asylum-seekers often came initially to Estonia in the hope of emigrating subsequently to the Scandinavian countries, where the standard of living was higher. Nevertheless, statistics showed that there were very few cases of "illegal immigrants". In fact, the "immigration quotas" referred to the number of residence or work permits issued to aliens during any given period. A high degree of flexibility was exercised in applying the quotas and the Government could, if need be, make exceptions or provide special dispensations.

9. Referring to Mr. de Gouttes' request for clarification regarding the Press Council, he indicated that the Council had been created in 1997 by journalists' associations themselves, in order to promote the ethics of the profession and to settle any disputes that might arise. It was independent and directly financed by members' subscriptions. The Estonian delegation would give more details on the issue in its next report.

10. Ms. RENNEL (Estonia), replying to questions concerning the access of minorities to the media, said that access was guaranteed expressly by law. Estonia applied a liberal policy regarding the print media: no authorization was required to set up a newspaper and the Russian-speaking population, the largest minority in the country, had the choice between 15 different newspapers. The Government even granted subsidies for the publishing of minority periodical publications.

11. The State did not interfere with the planning of radio or television programmes for minority groups. Public as well as private television channels broadcast programmes in Russian, since a large proportion of the non-Estonian population were not proficient in Estonian but did speak Russian. *Raadio 4* also offered programmes in other minority languages such as Ukrainian, Belarusian and Armenian, and there was a one-hour programme every month for the Jewish minority.

12. A daily Russian news programme was offered by the private television station TV1, and special longer programmes in minority languages were broadcast regularly on weekends by ETV and *Kanal 2*.

13. With regard to the use of minority languages, the way in which paragraph 64 of the report had been drafted might have caused some confusion. In fact, everybody had the right to use his or her minority language freely in personal communications, in private or in public, orally and in writing. The State did not interfere with that right in any way except for relations with public authorities. Pursuant to article 51 of the Constitution, everyone had to address State agencies and their officials in Estonian and replies would also be in Estonian. Nevertheless, in localities where at least half of the permanent residents belonged to a minority, it was also possible to use

the language of that minority in communications with public authorities. Where the language of the majority of residents was not Estonian, local governments could use the main language spoken in the area as an internal working language. In practice, those provisions were used in several north-eastern towns, where the majority of the population was of Russian origin.

14. As to the possibility of receiving an education in a minority language, there had been two main types of school in Estonia during the Soviet occupation, each with a different curricula: Estonian-language schools, which also taught Russian, and Russian-language schools, which were usually monolingual. After regaining independence in 1991, Estonia had set out to create a uniform system for everybody, regardless of ethnic origin. It was still possible to receive education in Russian from nursery to secondary school, as well as in some vocational schools and universities. However, in accordance with the Basic and Upper Secondary Schools Act, by the year 2007, all graduates of non-Estonian-language basic schools should have sufficient knowledge of Estonian to enable them to continue their studies in Estonian. That did not mean that, in 2007, all establishments offering education in a language other than Estonian would be closed down. The relevant provisions applied only to secondary schools in the State sector; they did not affect either primary and basic schools or private establishments. Furthermore, the year 2007 was not a deadline, but would mark the beginning of a transitional period, during which schools with the necessary capability would have the option of providing education in Estonian, in one or more subjects or for the whole of the programme. The conversion would be progressive and, above all, voluntary. As paragraph 77 of the report explained, final examinations would take place in both languages, while State examinations would be in Estonian only, in order to facilitate both the integration of school leavers into the employment market and the acquisition of Estonian citizenship.

15. Members of the Committee who wished to have more information on the educational system could refer to the report submitted by Estonia to the Council of Europe at the end of 1999 under the Framework Convention for the Protection of National Minorities.

16. Referring to activities carried out by the Estonian Government to facilitate the integration of minorities, she said that the most important measure in that regard had been the opening, in September 1999, of an office of the Ministry for Population and Ethnic Affairs in the north-eastern town of Jõhvi. The office had a coordinating function and played an active role in implementing government policies in the region. One of its main tasks was to foster cooperation between the Ministry and organizations, cultural associations and other NGOs representing different ethnic groups.

17. Lastly, she thanked Mr. Valencia Rodriguez for his kind words on the Integration Foundation, of which she was a member herself. It was a non-profit-making organization that aimed to launch and facilitate various projects related to the integration of non-Estonians into Estonian society. It was working actively and effectively and was very popular with NGOs and individuals active in the field of integration. Members of the Committee who wished to have more details of its activities should request them from the Estonian delegation.

18. Ms. HION (Estonia), returning to the issue of linguistic proficiency, pointed out that, under article 10 of the Employment Contracts Act, it was illegal to give preferences or to restrict rights on the grounds of sex, ethnicity, colour, race or mother tongue. In fact, language

requirements in the field of employment were only allowed if the ability to use that language was of crucial importance in order to carry out the work. In practice, proficiency in several languages was sometimes rewarded by a salary increase (which nevertheless did not exceed a specified limit). Civil servants, for instance, by virtue of the Public Service Act, were entitled to wage bonuses related to their knowledge of foreign languages.

19. Regarding equality between men and women in the employment sphere, she said that the Wages Act made it illegal to increase or reduce wages on the grounds of an employee's sex or marital status. While that meant equal wage treatment for men and women guaranteed by law, the Government had also begun to implement a strategy to extend equality to other areas. A draft amendment to the Government of the Republic Act, currently under discussion in Parliament, provided for the creation of a special unit for the promotion of equality, as part of the Ministry of Social Affairs.

20. More information concerning equal treatment of men and women would be available in the report that Estonia was currently preparing under the Convention on the Elimination of All Forms of Discrimination against Women.

21. Referring to the issue of equality before the law, she said that the Constitution guaranteed the right to equality to non-nationals as well as to Estonian citizens, and that the local authorities as well as the legislative, executive and judicial powers were responsible for ensuring that it was respected. She referred back to information provided in the report concerning the possibilities of recourse to the courts, including Civil Procedure, Criminal Procedure and Constitutional Review Court Procedure. Since international treaty provisions, and in the present case the provisions of the Convention, were directly applicable in Estonia, the Supreme Court had declared some laws void on the grounds that they were inconsistent with the principle of equal treatment. Every person also had the right to file a petition with the Legal Chancellor, who acted as a mediator, to review the activities of State bodies and ensure that the people's rights and freedoms were respected. The possibilities offered by those mechanisms guaranteed the effective protection of the rights and freedoms of all persons residing in Estonia.

22. With regard to application of article 72 of the Criminal Code, few criminal proceedings took place under its provisions, but legal precedents existed nonetheless. In December 1999, for instance, the Supreme Court had confirmed the verdict of an appeal court, finding against an individual who had distributed newspapers containing incitement to hatred, violence and racial discrimination.

23. Replying to a question from Mr. Diaconu concerning section 611 of the Criminal Code, she confirmed that the article applied to all crimes against humanity, whether committed in time of peace, war or occupation. The text was based directly on international law provisions defining crimes against humanity, including genocide, so that interpretations of the article could refer to the relevant international instruments. Since Estonia was a party to the Convention on the Prevention and Punishment of the Crime of Genocide, the amendments to the Criminal Code made in 1994 had reflected the principles contained in that Convention.

24. Ms. JAANI (Estonia), replying to another question from Mr. Diaconu, said that around 140,000 residence permits had been granted to non-nationals. The statistics concerning the number of passports issued to non-nationals - nearly 700,000 - were not relevant, since passports were valid for a compartatively short period and were renewed frequently.

25. In order to make the Citizenship and Immigration Board more user-friendly, staffing levels had been increased considerably and office opening hours extended.

26. The Estonian Union of National Minorities, referred to in paragraph 399 of the report, had been very active in protecting the rights of minorities over the previous few years, as had the Union of National Cultural Associations, which had been organizing seminars, exhibitions and cultural festivals since its creation in 1997. The Estonian Union had also established a legal aid centre, a political club, and a centre for information and publications.

27. There were over 20 NGOs officially active in the human rights field, of which the best known were the Estonian Human Rights Institute, the Legal Information Centre for Human Rights and the Jaan Tõnisson Institute, which were described in paragraphs 391-395 of the report. Those independent organizations had been asked for assistance on various occasions by State bodies and had the opportunity to express their views on programmes planned by the Government. They monitored Estonian domestic and foreign policy to make sure that it remained consistent with international obligations. The Legal Information Centre for Human Rights had been created in 1994 as an independent initiative to promote human rights awareness in Estonian society. It offered free legal advice and collected, analysed and distributed information on human rights. The Jaan Tõnisson Institute was more active in the spheres of research and training as means to promote the development of democracy in civil society. It organized workshops, training seminars, etc. on human rights-related issues, aimed at, amongst others, teachers, civil servants and NGOs. A teaching programme on ethnic and cultural diversity had only recently been carried out. Finally, the creation of a Web site in 1996 would enable more people to have cheap access to information provided by the Institute.

28. Replying to a request from Mr. Yutsis for clarification of the following statement in paragraph 387 of the report: "the main objective of Estonia's cultural policy is to secure the continuance of the traditions of Estonian national culture [and] the exercise of the cultural autonomy of national minorities", she said that one had to take into account the country's history in order to understand that position. When Estonia had regained independence in 1991, it had been on the brink of losing its own national culture, which had led the authorities to take steps in order to recover the foundations of that culture. At the same time, the State party encouraged minorities to engage in cultural activities and retain their links with their countries of origin. In 1997, it had established a Council for National Minority Cultures under the Ministry of Culture, which took part in decision-making relating to support for minority cultural initiatives and coordinated their activities. More than 60 cultural societies and some projects devised by them currently received financial support from the Government. Nevertheless, safeguarding Estonian culture remained the main priority.

29. She concluded by saying that her delegation had taken careful note of the Committee's recommendations concerning Estonia's accession to the various international instruments, and would pass them on to its Government. The possibility of making the declaration provided for in

article 14 of the Convention would be seriously considered. She expressed her thanks to the members of the Committee for the spirit of cooperation and the attention they had shown to her delegation.

30. Mr. ABOUL-NASR welcomed the constructive dialogue with the delegation, particularly in view of the fact that it was the first time that the Committee had met an Estonian delegation.

31. Nevertheless, he was not convinced by the arguments expressed by one member of the delegation concerning immigration quotas. It was not satisfactory to refer to the policies applied by certain European countries, since the Committee's mandate was not to oversee European standards but to monitor application of the provisions of the Convention. To establish immigration quotas linked to nationality was a form of discrimination in the treatment of non-nationals, which, in his view, constituted a violation of the Convention. He would also be interested to know if the minorities referred to in paragraph 53 of the report enjoyed equal treatment and asked if the delegation could provide information in that respect in their next report. Simply for the purposes of information, he asked whether there was a national minority of Muslim faith, as was the case in Finland.

32. Mr. DIACONU said that the dialogue initiated with the delegation reassured him that the State party was adopting the right attitude in its attempts to resolve the problems identified during the current discussion. However, he would like to revert to the issue of the election result which had been overturned by a court on the grounds that the winner had not been sufficiently proficient in the language. He was surprised that the decision had been taken by a court, even though no offence had been committed. He urged the State party to review the provisions for taking such decisions and asked the Government to take into account the fact that the person concerned had been democratically elected.

33. He pointed out that in the report dealing with the definition of minorities (E/CN.4/Sub.2/1992/37), the idea of a minority was not linked to citizenship. The definition was more general, referring to people and not citizens. He asked the delegation to re-examine that issue.

34. Mr. de GOUTTES shared Mr. Aboul-Nasr's sentiments about the quality of the delegation's contribution, which he had found most professional. He was impressed by the Estonian Government's intention to look into the possibility of making the declaration provided for in article 14 of the Convention.

35. He would be interested to know whether any racist associations existed in Estonia and, if so, whether and how they were punished. It was important for the Committee to know the details of any sentences.

36. Mr. SHAHI said that he associated himself with the remarks concerning the professionalism of the delegation. He was surprised to learn that the population of Estonia was steadily declining and would be grateful if the situation could be clarified. It had also been stated in the report that in 1934 the Tartars had numbered 166. From which country had the 3,271 Tartars living in Estonia today emigrated?

37. Mr. RECHETOV said that the Estonian delegation had replied to all the questions from members of the Committee, but that the answers had not been entirely clear on certain points.

38. He failed to understand why the presence of retired Red Army soldiers from the former Soviet Union in Estonian territory made it impossible to buy small arms in Estonia. Did that mean that the authorities feared that the retired soldiers might form a secret army?

39. Paragraph 87 of the report had stated that section 611 of the Estonian Criminal Code established punishment by deprivation of liberty from 8 to 15 years or life for perpetrating crimes against humanity, such as deportation and deprivation or restriction of the economic, political and social rights of native inhabitants during occupation or annexation. He failed to understand why that provision only seemed to apply to crimes committed during the occupation or annexation of Estonia. Had a mistake been made in the translation? He would also be interested to know if, given the size of the Russian-speaking population, the Criminal Code had been published in Russian.

40. He would appreciate clarification of the status of aliens, given that the existing immigration quotas prevented them from obtaining Estonian citizenship and therefore from enjoying economic, political and social rights. The problem was even more serious if one considered that many such aliens had been legally residing in Estonia for many years.

41. Some Committee members had identified certain Estonian legal provisions that were discriminatory towards aliens. The delegation had replied that a number of respectable Western European countries had similar laws. The dialogue between Estonia and the Committee would not be enriched by references to other countries' inadequacies, even if certain countries whose legislation failed to recognize national minorities had been trying to rectify the legal situation in that regard. At any rate, it was inadvisable for Estonia to look to imperfect examples for inspiration.

42. Ms. JANUARY-BARDILL said that, as she understood it, the general thrust of Estonian policy reflected a cultural approach based on the recognition of the existence of separate but equal elements, and the attempted integration of those elements into national life. In her view, that approach prevented certain sections of the population from participating in national political life, including in decisions concerning the allocation of public resources. She feared that it constituted a form of involuntary discrimination, stopping some groups of people from participating in the political decision-making process.

43. The CHAIRMAN invited the Estonian delegation to reply to the questions and observations of the Committee members.

44. Mr. KULL (Estonia), replying to a question from Mr. Aboul-Nasr, said that the immigration quotas were an element of Estonia's immigration-control system. When it had been introduced in the early 1990s, the system had contained identical provisions for all States, except for members of the European Community and the European Free Trade Association (EFTA), which had signed bilateral agreements with Estonia concerning the movement of labour (covering work and residence permits). Since then, Estonia had ratified the Single European Act and the Maastricht Treaty, which contained provisions relating to the movement of persons and

residence rights. Those provisions could be discriminatory towards third country nationals. In view of that, could the Committee consider examining all bilateral and regional agreements or treaties in order to establish whether they were consistent with the Convention?

45. Estonia did not differentiate between aliens on grounds of racial, ethnic or national origin, but on the basis of existing agreements with the States of which they were nationals.

46. Referring to a question from Mr. Rechetov concerning quotas for the acquisition of Estonian citizenship, he said that there must have been a misinterpretation of the report, since his country had never established quotas in that regard, nor did it intend to do so.

47. Ms. JAANI (Estonia) said that her delegation would be glad to supply the Committee with the additional information requested on various aspects of the application of the Convention in her country. She accepted the criticisms from Committee members concerning some effects of the agreements between Estonia and the European Union that were inconsistent with the Convention.

48. Mr. YUTZIS (Country Rapporteur) said that Estonia's recent history, marked by annexation and occupation by the Soviet Union, which had completely dismantled the State system and society of the Republic of Estonia (para. 16), was a fundamental element for the Committee to take into consideration, for it profoundly affected the process of national reconstruction initiated in Estonia.

49. Since the future was most important for the application of the Convention and the reconstruction of the country, he hoped that Estonia would ensure that its definition of minority did not foster assimilation to the detriment of the integration of national minorities.

50. Regarding the effects of the regional agreements to which Estonia was party, he said that the Committee had no reason to believe that the Treaty of Maastricht would be a positive influence in terms of the application of the Convention. It classified people into distinct categories depending on their nationality, which contradicted the aims of article 2 of the Convention, namely, to encourage means of eliminating barriers between races and to discourage anything which tended to strengthen racial division.

51. In Estonia's next periodic report, he would welcome as complete information as possible regarding the enjoyment of the rights listed in article 5 of the Convention. It would be useful for the Committee to have some statistics on, among other things, the number of citizens from the Russian minority and from other minorities receiving secondary or university education, the situation of those groups in the employment sector, and the number of stateless persons who had obtained Estonian citizenship.

52. He offered his congratulations to the delegation and to the Estonian people on their remarkable national reconstruction effort, on the quality of the report and the information provided orally to the Committee, while he hoped that the less comprehensive aspects would be elaborated upon in Estonia's next report.

53. The CHAIRMAN thanked the Estonian delegation for the remarkable spirit in which it had taken part in the consideration of the initial, second, third and fourth periodic reports of its country. He drew attention to the fact that States parties were required, under article 9 (1) of the Convention, to submit regular periodic reports to the Committee, and pointed out that the next report of Estonia would fall on 19 November 2000.

54. The Committee had thereby concluded its consideration of the initial, second, third and fourth periodic reports of Estonia.

55. The delegation of Estonia withdrew.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5) (continued)

Venue of the fifty-ninth session of the Committee (continued)

56. The CHAIRMAN reminded members that, at its 1386th meeting, the Committee had in principle decided to hold its August 2001 session in South Africa to coincide with the World Conference against Racism, subject to examination of the financial aspects by the High Commissioner for Human Rights in consultation with the Secretariat.

57. As for the necessary agreement by South Africa, Ms. January-Bardill had promised to contact the Permanent Mission of South Africa to the United Nations Office at Geneva and other international organizations in Switzerland. He invited her to report on those contacts.

58. Ms. JANUARY-BARDILL said that she had communicated the Committee's proposal to the Permanent Representative of South Africa to the United Nations Office at Geneva, who had been very enthusiastic about the idea. He had promised to commend it to his Government as soon as the Permanent Mission had received an official letter on the subject from UNOG.

59. The CHAIRMAN said that the Committee members would be kept duly informed of the financial aspects of the proposal and that the High Commisioner's Office would send an official letter on the issue as soon as possible to the Permanent Mission of South Africa to UNOG.

The public part of the meeting rose at 12.20 p.m.